

# UNITED STATES FEDERAL COMMUNICATIONS COMMISSION

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In the Matter of )

FAMILY BROADCASTING, INC. )

Order to Show Cause Why the Licenses )  
for Stations WSTX(AM) and WSTX-FM, )  
Christiansted, U.S. Virgin Islands, )  
Should Not Be Revoked )

EB Docket No. 01-39

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# ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FAMILY BROADCASTING, INC.	)	
	)	
Order to Show Cause Why the Licenses	)	EB Docket No. 01-39
for Stations WSTX(AM) and WSTX-FM,	)	
Christiansted, U.S. Virgin Islands,	)	
Should Not Be Revoked	)	

Federal Communications Commission  
Room TWA-363  
445 12th Street, S.W.  
Washington, D.C. 20554

Tuesday,  
April 3, 2001

The parties met, pursuant to the notice of the  
Judge at 9:04 a.m.

BEFORE: HONORABLE Richard L. Sippel  
Judge

APPEARANCES:

On behalf of Family Broadcasting, Inc.:

DANIEL A. HUBER, ESQUIRE  
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On Behalf of the Agency:

JAMES W. SHOOK, ESQUIRE  
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P R O C E E D I N G S

(9:04 a.m.)

JUDGE SIPPEL: Let's go on the record.

This is the first pre-hearing conference in the matter of Family Broadcasting, Inc., EB Docket No. 01-39.

Good morning, everyone. I'd like counsel to please note their appearances.

On behalf of the licensee?

MR. HUBER: Thank you, Your Honor. My name is Daniel Huber, H-u-b-e-r, and I'm entering my appearance on behalf of Family Broadcasting.

JUDGE SIPPEL: All right. Will you be with former counsel, Mr. Colby, or are you going to be it?

MR. HUBER: We are co-counsel on the case. Mr. Colby probably will continue to be involved. I may handle the hearing, he may handle the hearing, we may do it jointly.

JUDGE SIPPEL: Okay. So then for my purposes, I've got two notices of appearance: one, Mr. Colby, who has filed his, you're making your notice of appearance today. I would ask you to also file one with the secretary's office, if you would, please, in written format.

MR. HUBER: Yes, Your Honor.

JUDGE SIPPEL: And let it be clear on that notice of appearance that you are joining with Mr. Colby. I have

1 to know exactly what the status of all the counsel are in  
2 the matter. Do you understand what I'm saying?

3 MR. HUBER: Yes, Your Honor.

4 JUDGE SIPPEL: Okay. On behalf of the Bureau?

5 MR. SHOOK: James Shook.

6 MS. BERTHOT: Katherine Berthot.

7 JUDGE SIPPEL: Your name again, ma'am?

8 MS. BERTHOT: Katherine Berthot.

9 JUDGE SIPPEL: Okay. There has been filed a  
10 status report which has been very helpful and I don't know  
11 how much is going to need to be done today in terms of  
12 business, but to set the dates.

13 Let me ask Mr. Shook or Ms. Berthot, is there  
14 anything that you want to say as a preliminary matter?  
15 Is there anything you think I should be aware of? Are there  
16 any burning issues for this morning?

17 MR. SHOOK: No, there are no burning issues.  
18 Basically, as you've said, it's a matter of setting the  
19 dates.

20 JUDGE SIPPEL: All right. Mr. Huber, anything  
21 from your side?

22 MR. HUBER: I would just like to -- I'm not sure  
23 if you were aware, Your Honor, but our client has filed a  
24 request for transfer of control of the stock from the father  
25 of family to his children. I would like to note that for

1 the record.

2 We are hopeful that once the deposition of the  
3 children is taken, and the father, if necessary, that it  
4 will be apparent that the new licensee was not involved in  
5 any of the wrongdoing.

6 JUDGE SIPPEL: The new licensee prospective  
7 licensee would be Ms. James Peterson? Is that right?

8 MR. HUBER: Yes, Your Honor.

9 JUDGE SIPPEL: I appreciate your letting that be  
10 known for the record. I am generally aware of that from the  
11 status report.

12 MR. HUBER: Okay.

13 JUDGE SIPPEL: Which was, as I say, so good and so  
14 thorough. And as the status report represents, you're going  
15 to take her deposition and then the Bureau is going to  
16 assess what their views are with respect to the merits of  
17 this potential transferee.

18 Am I hearing that correct?

19 MR. SHOOK: That's basically it, Your Honor.

20 JUDGE SIPPEL: Okay. All right.

21 I just want to let it be known that there are  
22 two things that concern me about this case, without getting  
23 into all the technical violations or alleged violations  
24 which are laid out very clearly in the hearing designation  
25 order.

1           The first thing is that this was before a prior  
2   judge before me, Judge Luton, and somehow or other Judge  
3   Luton had been convinced that it was appropriate to issue a  
4   summary decision in favor of the licensee and it looked like  
5   his order, which I read -- I mean, certainly I've read  
6   before coming in here, that he was relying an awful lot on  
7   the good faith of these people in terms of what he was  
8   telling him. And by "these people" I mean the licensee and  
9   those who are associated with the licensee.

10           Secondly, there is an allegation or there is a  
11   charge in the hearing designation order, as Mr. Colby points  
12   out, it's technically -- he calls it an order to show cause,  
13   and I am aware of that and I am aware that there is also a  
14   difference between an order to show cause and a hearing  
15   designation order, or there are distinctions, I should say,  
16   maybe as opposed to differences. So if I refer to the  
17   hearing designation order, please be aware of the fact that  
18   I'm recognizing it as an order to show cause here. But be  
19   that as it may, there is an issue set in this case of an  
20   alleged or a substantial question as to whether or not there  
21   has been a misrepresentation.

22           So I have to deal with that issue, so my point  
23   being that just taking a deposition and everybody deciding  
24   on your side of the table that this would be okay to do  
25   doesn't necessarily meet my responsibilities in this case.

1           So I want to be kept very carefully apprised as to  
2   what's going on in that respect, because we may have to take  
3   some deposition testimony, maybe before me if it's going to  
4   be contemplated that that's where you want to come out on  
5   this.

6           I'm looking at it very closely. I'm very  
7   concerned. I would be looking at it, perhaps, in a  
8   different vein if it were going to be some outside party and  
9   assuming all the other qualifications for a transfer could  
10   be met.

11           Does anybody have any comment on that or any  
12   response to my reaction? None?

13           MR. HUBER: No, Your Honor.

14           JUDGE SIPPEL: Okay. We understand each other.  
15   That's fine. Let's move on to business, then.

16           Again, this status report has pretty well laid it  
17   out for me, so I'm going to pick up on what you've told me  
18   in the status report.

19           I'm going to give you dates, starting with the  
20   hearing date and moving back, and you let me know if there's  
21   anything that's going to be any conflict or any concern  
22   about these dates.

23           I think the July 10 date is an excellent date to  
24   have the hearing, which is a Tuesday, July 10, 2001. The  
25   hearing would be here in Washington, D.C. in this courtroom,

1 and the estimated time is three or four days, so it should  
2 be completed that week.

3 Moving back to June 11th -- I have a June 7th day  
4 on notification of witnesses and then a June 11th date to  
5 object. In light of the nature of this case, I don't think  
6 that those dates are really going to be too meaningful, but  
7 in the event that there is going to be -- we don't know  
8 right now sitting here today if this thing does go forward  
9 to a hearing exactly what the witnesses are going to be, so  
10 there may be some reason to have these notification and  
11 objection dates, so I'm going to put them in. For what  
12 they're worth, I'm going to set them, all right?

13 June 4, this is a more critical date, June 4 will  
14 be the exchange of direct case exhibits. Sworn written  
15 testimony, which is optional, I've seen from the status  
16 report that apparently the licensee intends to use that or  
17 certainly the Bureau is willing to cooperate with that  
18 procedure and I'm all for it. List of witnesses. So it's  
19 the standard type of exchange that we have here.

20 And then May 18th would be the completion of  
21 discovery date.

22 Now, I know that there are -- does anybody have  
23 any objection or any problem with those dates?

24 MR. HUBER: Those dates are fine with me,  
25 Your Honor.



1 JUDGE SIPPEL: All right. Consider them set and  
2 I will get the order out this afternoon some time.

3 MR. SHOOK: It's going to impose a little bit more  
4 burden on my partner here since I'm going to be out of the  
5 country for part of that time, but I think we'll be able to  
6 do it.

7 JUDGE SIPPEL: That's all the more reason why it's  
8 always good to see two counsel at the table, but have a nice  
9 trip.

10 MR. SHOOK: Thank you.

11 JUDGE SIPPEL: I hope it's on something that it's  
12 a topic of enjoyment or it's a reason for enjoyment or  
13 you're not going out of the country because you've got some  
14 kind of a situation outside the country.

15 MR. SHOOK: This is pure fun.

16 JUDGE SIPPEL: There you go. Excellent. Okay.  
17 I want to be sure I'm not saying it the wrong way.

18 Now, my practice is, now that we're in the 21st  
19 century, I've been using some of this e-mail to give  
20 courtesy copies to counsel. It will save you a lot of time  
21 and money, I would think. If you want to call my legal  
22 tech, Sheila Parker, and give her all the information, your  
23 e-mail address, your fax address --

24 Are you with Mr. Colby?

25 MR. HUBER: No, I have a separate address. I'll

1 give it to her.

2 JUDGE SIPPEL: Okay. She's at 418-2800. And when  
3 we get it, we'll put you on the list for the e-mailing and I  
4 will e-mail courtesy copies, certainly, to counsel for the  
5 Bureau and to Mr. Colby's office.

6 MR. HUBER: I'll have to let you know, Your Honor.  
7 I'm not quite in the 21st century yet myself.

8 JUDGE SIPPEL: All right.

9 MR. HUBER: I will be shortly, I hope.

10 JUDGE SIPPEL: Do you want a fax number? We fax  
11 or we e-mail.

12 MR. HUBER: Okay. Fax is fine.

13 JUDGE SIPPEL: If it's not too long a document.

14 MR. HUBER: But I will set up an e-mail account  
15 soon.

16 JUDGE SIPPEL: Now, I think that's it. I have one  
17 comment I want to make with respect to discovery.

18 The Bureau has done an excellent job in getting  
19 these requests for admissions out and I take it there's  
20 going to be no delay with those.

21 Are you focused on those at all, Mr. Huber, or  
22 have you talked to Mr. Colby about those?

23 MR. HUBER: Yes, I have been in discussion with  
24 Mr. Colby. His office was working on the responses. In  
25 fact, he had hoped to have them filed yesterday. I'm not

1 certain whether they were not, they may have been, but they  
2 will be filed very shortly, if they were not.

3 JUDGE SIPPEL: All right. Now, I mean, a response  
4 to something like that, I'm not asking for e-mail or  
5 courtesy copies on that kind of thing.

6 MR. HUBER: Right.

7 JUDGE SIPPEL: But if you're going to be sending  
8 letters back and forth or if there's any correspondence that  
9 you want to put me in the loop on, talk to Ms. Parker,  
10 she'll give you an e-mail address or you can fax it to me.  
11 I prefer fax because I can pick it up easier myself if she's  
12 not in the office.

13 MR. HUBER: I prefer fax myself, too, for the time  
14 being, Your Honor.

15 JUDGE SIPPEL: You and I are probably in the lower  
16 end of the 21st century.

17 Again, I just want to encourage -- take back my  
18 message to Mr. Colby and I'm sure he is, but I am  
19 encouraging full cooperation on this. There's been all  
20 kinds of concerns expressed about money and inconvenience  
21 and all other kinds of things and the easiest way to get  
22 around that is to just cooperate with one another and I have  
23 heard no opposition, I've heard nothing but positive things  
24 about going about getting answers in in a timely fashion on  
25 these requests and that's going to help things tremendously.

1           Anything that can be done after -- if those come  
2 in, I would ask Bureau counsel to look at them, both counsel  
3 to look at them, with stipulations in mind to the extent  
4 that it's at all possible, to the extent that it's workable.  
5 In other words, the information gleaned from the questions  
6 and the answers and the requests could then be recast into  
7 stipulations or an overall stipulation that would make it a  
8 much more pleasant experience for everybody in terms of an  
9 evidentiary matter. It comes in as a much better exhibit  
10 that way.

11           All right. I have a list of things that I've  
12 noted down here in terms of what's been going on, but the  
13 facts pretty much speak for themselves. There's no sense in  
14 rewinding over those today. I'm basically satisfied that  
15 we're going to get this case resolved on schedule, even with  
16 Mr. Shook outside the country for a couple of days.

17           Enjoy your trip, sir.

18           MR. SHOOK: Thank you, sir.

19           JUDGE SIPPEL: We are in recess then until the  
20 10th of July, unless there is another need for us to meet.

21           Thank you very much.

22           (Whereupon, at 9:17 a.m., the proceedings were  
23 concluded.)

24    //

25    //

**REPORTER'S CERTIFICATE**

FCC DOCKET NO.: 01-39


CASE TITLE: IN RE: FAMILY BROADCASTING, INC.

HEARING DATE: April 3, 2001

LOCATION: Washington, DC

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.


Date: 4/3/01

  
John DelPino  
Official Reporter  
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I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

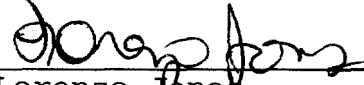
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I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

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